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DALBY *et al.*
Appl. No. 10/755,082*Remarks*

Claims 1-117 are pending in the application. Reconsideration and withdrawal of the restriction is requested.

The Examiner has restricted the claims to eight inventions citing 35 U.S.C. § 121. (Office Action, page 2.) Applicants respectfully disagree.

In the event Applicants' arguments below are found unpersuasive, Applicants elect the invention of Group 5, claims 61-90, which the Examiner asserts is "drawn to a method of delivering a nucleic acid to a cell comprising contacting said cell with said nucleic acid, a fluorescent molecule, and a cellular delivery molecule, and treating the cell with a treatment that causes dissociation of said nucleic acid from one or both of said fluorescent molecule, and said cellular delivery molecule..." (Office Action, page 2.) This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

A requirement for restriction is proper only if a search and examination of the entire application would impose a serious burden on the Examiner. (See Manual of Patent Examining Procedure (MPEP) § 803 (eighth edition, revision 5, August 2006).) Applicants believe that a search of the subject matter of the claims of Group 5 relating to contacting a cell with a nucleic acid, a fluorescent molecule and a cellular delivery molecule, would be substantially coextensive with a search of the subject matter of the claims of Groups 1-4, and 6-8 which relate to methods, complexes and kits comprising nucleic acid, fluorescent and cellular delivery molecules. A search of the art for Group 5 would necessarily lead to art that was relevant to Groups 1-4 and 6-8 as well. Thus, Applicants respectfully submit that searching and examining the subject matter of the claims of Groups 1-4, and 6-8 would not

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impose a serious burden on the Examiner. Accordingly, Applicants respectfully request that the restriction requirement be reconsidered and withdrawn.

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Conclusion

Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Reply is respectfully requested.

Respectfully submitted,

/Peter G. Foiles/

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